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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/985,889	11/06/2001	Hajime Tabata	0505-0913P	4547
2292	7590	10/05/2004	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			PHAM, TUAN	
			ART UNIT	PAPER NUMBER

2643

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/985,889	Applicant(s) TABATA ET AL.	
	Examiner TUAN A PHAM	Art Unit 2643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 5-16 is/are rejected.
- 7) ☒ Claim(s) 3-4 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-16 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-22 of U.S. Patent No. 6,507,280. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1-16 in the constant application have the same scope of claimed invention with obvious wording variations. Each of the above patents includes the helmet with speaker and microphone, communication unit, cable, and the magnetic connector. The system comprises the element of the helmet with speaker and microphone, communication unit, cable, and the magnetic connector for communicating between the motorcycle driver and passenger.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1- 2, and 5-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stafford et al. (U.S. Patent No.: 5,243,659, hereinafter, "Stafford") in view of Yoshimi (U.S. Patent No.: 5,396,563).

Regarding claims 1 and 10, Stafford teaches a communication system for individuals comprising (see figure 1):

a plurality of helmets each helmet being provided with a speaker and a microphone (see figure 3, speaker 115, microphone 127, 129, col.13, ln.38-62),

a communication unit provided on a vehicle body (see figure 3, VOX intercom 88, col.13, ln.38-62),

a cable for connecting the communication unit and each of said helmets for enabling communication between individuals wearing each helmet (see figure 3, cable 87, 89, VOX intercom 88, col.13, ln.38-62), and

a connector for connecting the communication unit and the cable (see figure 3, VOX intercom 88 and cable 87, 89 connect together by connector).

It should be noticed that Stafford fails to clearly teach said connector being a magnetic connector. However, Yoshimi teaches such features (see figure 30, col.12, ln.35-67, col.13, ln.1-23) for a purpose transmitting the elastic wave through the helmet.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of magnetic connector, as taught by Yoshimi, into view of Stafford in order to conveniently connect the cable with the device.

Regarding claims 2 and 11, Stafford teaches a communication system for individuals comprising (see figure 1):

a plurality of helmets each helmet being provided with a speaker and a microphone (see figure 3, speaker 115, microphone 127, 129, col.13, ln.38-62),

a communication unit provided on a vehicle body (see figure 3, VOX intercom 88, col.13, ln.38-62),

a cable for connecting the communication unit and each of said helmets for enabling communication between individuals wearing each helmet (see figure 3, cable 87, 89, VOX intercom 88, col.13, ln.38-62), and

a connector for connecting the helmet and the cable (see figure 3, cable 87, 89 connect with helmet by connector).

It should be noticed that Stafford fails to clearly teach said connector being a magnetic connector. However, Yoshimi teaches such features (see figure 30, col.12, ln.35-67, col.13, ln.1-23) for a purpose transmitting the elastic wave through the helmet.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of magnetic connector, as taught by Yoshimi, into view of Stafford in order to conveniently connect the cable with the device.

Regarding claims 5 and 12, Stafford further teaches the communication system for individuals, wherein the connection between the communication unit and the cable may be disconnected by applying a force in any direction. Stafford fails to explicitly teach the connection between the communication unit and the cable may be disconnected by applying a force in any direction. However, Stafford teaches teach the connection between the communication unit and the cable. Therefore, the cable may be disconnected by applying a force in any direction is obvious.

Regarding claims 6 and 13, Yoshimi further teaches the communication system for individuals wherein magnets are secured to each of said helmets and said cables include magnetically attractive material for mating with said magnets for connecting the cable to said helmet (see col.12, ln.35-68).

Regarding claims 7 and 14, Yoshimi further teaches the communication system for individuals wherein magnets are secured to said communication unit and said cables include magnetically attractive material for mating with said magnets for connecting the cable to said communication unit (see col.12, ln.35-68).

Regarding claims 8 and 15, Stafford further teaches the communication system for individuals further including a detecting circuit for detecting loud noises and for suppressing said loud noises so that individuals using the communication system do not experience unpleasant sounds (see figure 1, col.2, ln.59-68, col.3, ln.1-19).

Regarding claims 9 and 16, Stafford further teaches the communication system for individuals wherein one end of said cable includes a magnetically attractive material and the distal end of the cable includes a magnetic material wherein the one end of the cable and the distal end mate with each other during storage of the cable during non-use (see figure 3, cable 87, 89).

Allowable Subject Matter

5. Claims 3-4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. In order to expedite the prosecution of this application, the applicants are also requested to consider the following references. Although Von Statten, Jr. (U.S. Patent No. 4,109,105), Komuro (U.S. Patent No. 4,549,629), Kido (JP 2000221050A), and Tani (JP 09078332 A) are not applied into this Office Action; they are also called to Applicants attention. They may be used in future Office Action(s). These references are also concerned for supporting the system and method for providing rear seat device for two wheeled motor vehicles.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Tuan A. Pham** whose telephone number is (703) 305-4987. The examiner can normally be reached on Monday through Friday, 8:00 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Curtis Kuntz can be reached on (703) 305-4708 and

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Or faxed to: (703) 872-9306

Art Unit: 2643

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington VA, Sixth Floor (Receptionist, tel. No. 703-305-4700).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have question on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Art Unit 2643
August 29, 2004
Examiner

Tuan Pham


CURTIS KUNTZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600